

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

JOSEPH WILLIAM NOVAK,
Plaintiff,
v.
TINA M. MENDEZ, et al.,
Defendants.

No. 2:20-cv-01721 JAM AC PS

FINDINGS AND RECOMMENDATIONS


Plaintiff is proceeding in this action pro se. The action was accordingly referred to the undersigned for pretrial matters by E.D. Cal. R. ("Local Rule") 302(c)(21). On November 30, 2020, defendant Amerihome Mortgage Company LLC filed a motion to dismiss this case. ECF No. 10. Plaintiff did not respond. Plaintiff did file an improperly noticed motion for default judgment against a separate defendant, Tina Mendez, on December 7, 2020. ECF No. 12. Defendant Mendez has appeared and made a motion to set aside default. ECF No. 14.

On January 5, 2021, in light of plaintiff's failure to respond to the motion to dismiss, the court issued an order to show cause within 14 days why this action should not be dismissed for failure to prosecute. ECF No. 13. The court informed plaintiff that the filing of any statement of good cause, or an opposition or non-opposition to the motion to dismiss, would satisfy the order. Plaintiff was cautioned that failure respond could lead to a recommendation that the action be dismissed. Plaintiff did not file any response. Plaintiff has not responded to the court's orders, nor taken any action to prosecute this case.

1 Therefore, IT IS HEREBY RECOMMENDED that this action be dismissed, without
2 prejudice, for lack of prosecution and for failure to comply with the court's order. See Fed. R.
3 Civ. P. 41(b); Local Rule 110.

4 These findings and recommendations are submitted to the United States District Judge
5 assigned to this case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within twenty-one
6 (21) days after being served with these findings and recommendations, plaintiff may file written
7 objections with the court. Such document should be captioned "Objections to Magistrate Judge's
8 Findings and Recommendations." Local Rule 304(d). Plaintiff is advised that failure to file
9 objections within the specified time may waive the right to appeal the District Court's order.
10 Martinez v. Ylst, 951 F.2d 1153 (9th Cir. 1991).

11 DATED: January 20, 2021

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13 ALLISON CLAIRE
14 UNITED STATES MAGISTRATE JUDGE
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